

MONITORING THE MONITORS

A Micro Study on Monitoring Committees in West Bengal



CHRI

Commonwealth Human Rights Initiative
working for the practical realisation of human rights in
the countries of the Commonwealth

Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI. They believed that while the Commonwealth provided member countries a shared set of values and legal principles from which to work and provided a forum within which to promote human rights, there was little focus on the issues of human rights within the Commonwealth.

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“States should ensure that mechanisms to track, monitor and evaluate legal aid are established and should continually strive to improve the provision of legal aid.”

Guideline 17, UN Principles and Guidelines on Access to Legal Aid in the Criminal Justice System 2012

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INTRODUCTION

This report documents the functioning of Monitoring Committees mandated to observe and check legal services provided by legal services institutions in West Bengal. These committees must be constituted in all legal service institutions as per the National Legal Services Authorities (Free and Competent Legal Services) Regulations, 2010.¹ Even after eight years these committees are yet to be set up in many states in India. In majority of districts in West Bengal they have been constituted only in 2016.

CHRI prepared a report on monitoring committees for Rajasthan in 2016.² That report was based on responses received under the Right to Information Act 2005 and revealed that the committees had not been set up in majority of districts in Rajasthan. It also highlighted that even where established the infrastructure in terms of dedicated staff and registers was non-existent. Even the bi-monthly reports were not being sent regularly in most of the jurisdictions. Drawing from this experience, CHRI set out to understand the functioning of these committees in West Bengal.

The State Legal Services (SLSA) issued two circulars in West Bengal in 2012 and 2016 to ensure setting up of monitoring committees in all districts and sub divisions.³ Pursuant to the directives, monitoring committees were set up in 15 of the 19 districts by June 2016. To assess the functioning of these committees as per the provisions, Commonwealth Human Rights Initiative (CHRI) initiated this micro study. The contours of the study were decided in consultation with the West Bengal SLSA, who facilitated access to the districts for conducting the surveys.

This report documents the functioning of the Monitoring Committees set up in five districts and 13 sub-divisional legal services authorities of West Bengal. The report is divided into two parts, Part I is an analysis of the surveys conducted whereas Part II provides district wise data obtained from the surveys. Under Part I, there are four chapters; Chapter I describes the mandate and function of these committee, Chapter II explains the methodology used for the report, Chapter III provides the analysis of the surveys and Chapter IV places recommendations to overcome functional issues which pose difficulties for the effective functioning of these committees.

1 Annexure 1.

2 <http://www.humanrightsinitiative.org/download/1455789066LEGAL%20AID%20STATUS%20REPORT%20-RAJASTHAN%20E-VERSION.pdf>.

3 Annexure 2.

PART I:

EVALUATION & ANALYSIS

I. MONITORING COMMITTEES: THE BASICS

Legal Services Institutions and NALSA Regulations 2010

The Legal Services Authorities Act 1987 (hereby referred to as “the Act”) envisages the constitution of legal services authorities at the national, state, district and *taluk* (subdivision) levels across the country. For effective legal representation before the High Court and the Supreme Court, Supreme Court and High Court Legal Services Committees have been established. To enhance the quality of legal services being rendered to the poor and weak, NALSA brought out the NALSA (Free and Competent Legal Services) Regulations, 2010⁴ (hereby referred to as “the Regulations”), in exercise of the powers conferred on it under Section 4 and Section 29 of the Act. The Regulations provide for the following:-

1. Front Office (Reg 4) - Every legal service authority shall have a front office, consisting of panel lawyers and one or more paralegal volunteers. Applicant must submit an application seeking legal aid which is then forwarded to the Committee (Reg 7) to consider the application. The panel lawyers are required to provide legal services, draft notices, draft replies to notices, draft applications, and petitions, etc. Further, they can also provide legal assistance in consultation with Secretary of the legal service institutions.

2. Appointment of Legal Aid Lawyers (Reg 8) - Legal practitioners with more than three years of experience at the Bar can apply to be empanelled as panel lawyers. The application must accompany proof of professional experience in relation to type of cases that the legal practitioner has dealt with. The Executive Chairman/Chairman, in consultation with the Attorney General (High Court), District Attorney General or Government pleader (at District or Taluk level) and respective Bar Presidents appoint the panel lawyers. Separate panels for different types of cases along with experience may be prepared. The honorarium paid to the panel lawyers to be in accordance with Schedule of a fee as set by State Regulations.

3. Appointment of Retainer Lawyer (Reg 8) - They can be appointed for a fixed period by the Executive Chairman and the maximum strength cannot be exceeded at any Authority/ Committee. The honorarium payable to retainer lawyers is also fixed depending on the Authority/Committee. Their duty is to devote their time to legal aid work and man the front office.

4. Monitoring Committee (Reg 10 & 11) – This is another highlight of the Regulations, as it envisages the constitution of Monitoring Committees at every level - Supreme Court, High Court, District and, Sub Division. This has been done to ensure the quality of legal aid services rendered by the legal services authorities and for regular review of on-going legal aid cases.⁵

4 Annexure A.

5 Regulation 10.

Monitoring Committees: Constitution, Mandate & Process

Constitution: The Committee should comprise at the district/taluk level the senior most member of the higher judicial service posted in the district concerned, as chairman, the member secretary/secretary and a legal practitioner having more than 15 years' experience. And at the Supreme Court/High Court level, the chairman of the Supreme Court/High Court Legal Services Committee, Member Secretary/Secretary of the legal services institution and a senior advocate to be nominated by the patron in chief of the legal services institution.

Mandate: The Monitoring Committees (MCs) are the key body mandated to monitor legal aid delivery as well as evaluate the working of legal aid lawyers. It should monitor the court based legal services rendered and progress of cases in legal aid matters. As per Regulation 10, the functions include – maintaining details of legal services provided to the applicants, maintenance of day-to-day progress and decision, and any other legal service. Further, the MCs are required to submit bi-monthly reports, consisting of the assessment of the progress of every legal aid case and also the assessment of the performance of the panel or retainer lawyer to the Executive Chairman or the Chairman of the legal services institution.

Process: As per the Regulation 11, the MC must be intimated whenever legal services are being rendered by legal services authorities to the applicants. The Committee is required to maintain a register for recording the day-to-day progress as well as the decision in such cases. This register is to be scrutinised by the Chairman of each Committee every month. They are also empowered to keep a watch on the day-to-day proceedings of the Court by calling for reports from the panel lawyers. In order to enable the Committees to carry out their functions smoothly, the legal services institutions are to provide adequate infrastructure and staff to them.

The establishment of MC's can help in ensuring delivery of competent legal aid services. The Committees can foster efficiency in legal aid lawyers by ensuring regular scrutiny of the work of lawyers and providing them necessary instructions to deal with the cases in a speedy manner. In cases, where the Committees perceive that the progress of cases are not satisfactory, they can direct the legal services institution to change the panel lawyers or take any other appropriate measure.

Monitoring Committees: Key Provisions under NALSA (Free and Competent Legal Services) Regulations, 2010

Reg 11. Functions of the Monitoring Committee.—

- (1) Whenever legal services are provided to an applicant, the Member-Secretary or Secretary shall send the details in Form II to the Monitoring Committee at the earliest.
- (2) The Legal Services institution shall provide adequate staff and infrastructure to the Monitoring Committee for maintaining the records of the day-to-day progress of the legal aided cases.
- (3) The Legal Services Institution may request the Presiding Officer of the Court to have access to the registers maintained by the Court for ascertaining the progress of the cases.
- (4) The Monitoring Committee shall maintain a register for legal aided cases for recording the day-to-day posting, progress of the case and the end result (success or failure) in respect of cases for which legal aid is allowed and the said register shall be scrutinised by the Chairman of the Committee every month.
- (5) The Monitoring Committee shall keep a watch of the day-to-day proceedings of the Court by calling for reports from the panel lawyer within such time as may be determined by the Committee.
- (6) If the progress of the case is not satisfactory, the Committee may advise the Legal Services Institution to take appropriate steps.

Reg 12. Monitoring Committee to submit bi-monthly reports.-

- (1) The Monitoring Committee shall submit bi-monthly reports containing its independent assessment on the progress of each and every legal aid case and the performance of the panel lawyer or Retainer lawyer, to the Executive Chairman or Chairman of the Legal Services Institution.
- (2) After evaluating the reports by the Committee, the Executive Chairman or Chairman of the Legal Services Institution shall decide the course of action to be taken in each case.
- (3) It shall be the duty of the Member-Secretary or Secretary of the Legal Services Institution to place the reports of the Monitoring Committee before the Executive Chairman or Chairman of the Legal Services Institution and to obtain orders.



FORM II
National Legal Services Authority
(Free and Competent Legal Services) Regulation, 2010
(See regulation II)

Information furnished to the Monitoring Committee about the Legal Services provided Dated:

- (i) Name of the Legal Services Institution :
- (ii) Legal aid application number and date on which legal aid given :
- (iii) Name of the legal aid applicant :
- (iv) Nature of case :
(Civil, criminal, constitutional law etc.)
- (v) Name and roll number of the lawyer assigned to the applicant :
- (vi) Name of the Court in which the case is to be filed/defended :
- (vii) The date of engaging the panel lawyer :
- (viii) Whether any monetary assistance like, Court-fee, advocate commission fee, copying charges, etc., has been given in advance? :
- (ix) Whether the case requires any interim orders or appointment of commission? :
- (x) Approximate expenditure for producing records, summoning of witnesses, etc. :
- (xi) The expected time for conclusion of the proceeding in the Court :

Dated.....

Member-Secretary/Secretary

II. METHODOLOGY

District Legal Services Authorities (DLSAs) have been set up in 19 districts in West Bengal. For the study, five districts were shortlisted viz. Kolkata, South 24 Parganas, Hooghly, Howrah and North 24 Parganas. These DLSAs have 13 sub-divisional legal services committees (SDLSC) within their jurisdiction. In order to procure information visits were made to the district legal service authorities in each of the districts. While the sample is small, it is indicative of the status of monitoring committees in other districts as well.

Data were collected through interviews with the secretaries of each of the DLSAs. The interviews were conducted from January to March 2017. The interviews were semi-structured and questions were asked as per format below:-

QUESTIONNAIRE ON FUNCTIONING OF MONITORING COMMITTEES

Name of the District:

Name of SDLSCs falling within jurisdiction:

Date of the Interview:

Person Interviewed:

Designation:

1. Date of constitution of the Monitoring Committee –
2. Names of the members of the Monitoring Committee –
 - i. District Legal Services Authority –
 - ii. Sub-Divisional Legal Services Committees –
3. Designation of the members of the Monitoring Committee –
 - i. District Legal Services Authority –
 - ii. Sub-Divisional Legal Services Committees –

[Appointed under Regulation 10 (3) of the NALSA Regulations 2010 at each level]

4. Tenure of appointments made to the Monitoring Committee
5. List of staff personnel provided to the Monitoring Committee –
 - i. District Legal Services Authority –
 - ii. Sub-Divisional Legal Services Committees –

[Maintaining of daily records as per Regulation 11(2) of the NALSA Regulations 2010 at each level]

6. What is the role/duty of the Monitoring Committee?
7. Are registers being maintained?
 - i. District Legal Services Authority -
 - ii. Sub-Divisional Legal Services Committees -

Obtain Xerox copy of the 1- 2 pages of the register maintained by the Monitoring Committee–

- i. District Legal Services Authority**
- ii. Sub-Divisional Legal Services Committees**

[Recording day-to-day progress of legal aid cases as per Regulation 11(3) of the NALSA Regulations 2010:

8. Are bi-monthly reports being submitted by the MC to the Executive Committee?
 - i. District Legal Services Authority -
 - ii. Sub-Divisional Legal Services Committees -

Obtain copy of one of the bi-monthly reports submitted by the monitoring committee to the Executive Chairman/ Chairman –

- i. District Legal Services Authority**
- ii. Sub-Divisional Legal Services Committees**

[As per Regulation 12(1) of the NALSA Regulations 2010 at each level]

9. No. of panel lawyers and retainer lawyers appointed
 - i. DLSA -
 - ii. SDLSC -

[As per Regulation 8 of the NALSA Regulations 2010 at each level]

10. The amount of **funds disbursed** at the level of
 - i. District Legal Services Authority to
 - a) Panel Lawyers –
Honorarium Additional Expenses
Expenses for obtaining certified copies in case of appeal
 - b) Retainer Lawyers -
Honorarium Additional Expenses
Expenses for obtaining certified copies in case of appeal
 - ii. Sub-Divisional Legal Services Committees
 - a) Panel Lawyers –
Honorarium Additional Expenses
Expenses for obtaining certified copies in case of appeal
 - b) Retainer Lawyers -
Honorarium Additional Expenses
Expenses for obtaining certified copies in case of appeal
- A) **Honorarium** as per Regulation 8 (9) & 14 (1) of the NALSA Regulations 2010 **Additional Expenditure** as per Regulation 13 (1) of the NALSA Regulations 2010
- B) **Expenses for Obtaining certified copies of judgment** in case of appeal or revision as per Regulation 13(2) of the NALSA Regulations 2010
11. Where does the meeting of the monitoring committee take place?
12. How often does the monitoring committee meet?
13. Are any minutes of the meeting recorded for the meeting of the monitoring committee? If yes, copy of minutes for anyone meeting held in past 6 months.
14. How is the information (on the suggestion of the committee on the progress of the cases) communicated to the legal aid lawyer?
15. How often does the committee seek reports obtained from the legal aid lawyer on the cases being observed? Are lawyers required to submit written reports on each case?
16. How often does the committee seek registers/records from the court on legal aid cases?
17. Does the committee also ascertain whether the lawyer has had any interactions with a client or obtains client instructions before each hearing?
18. Is the committee empowered to receive/decide complaints received regarding non-performance/taking money by legal aid lawyers?
19. Any other information/suggestion

Person conducting interview & signature

III. GROUND REALITIES

The surveys indicate that MCs have been set up in four districts and only one sub-division. The section provides an analysis of the surveys on the basis of constitution, functioning and communication between stakeholders. It also lists down key issues and some best practices found in certain districts.

1. *Constitution*

In the districts four of the five DLSAs had constituted the MCs. The committee comprises three members as per the mandate; however, the tenure of the members was not fixed. In DLSA Howrah, the process was underway to constitute the MC. In the sub divisions only one of the SDLSCs (Diamond Harbour) confirmed the constitution of the MC. The others stated that either information was not available or the committee had not been constituted. In the Diamond Harbour SDLSC, the MC had three members; however, the tenure was not fixed.

2. *Functioning*

- a. **Staff:** DLSAs reported that there is no dedicated staff to carry on the work of the MC and the regular staff at the DLSA was deployed to take on additional work.
- b. **Registers:** Of the four DLSAs, three maintained registers. Registers were not found in South 24 Parganas. It was informed that no standardized format of registers has been made available by the SLA.
- c. **Reporting:** In two districts (Kolkata and South 24 Parganas) bi-monthly reports are required to be submitted by the Monitoring Committee to the Executive Committee. Barring North 24 Parganas, all other districts recorded minutes of the meetings.
- d. **Frequency of Meeting:** In two districts (Kolkata and South 24 Parganas) the frequency of the meeting is bi-monthly. Hooghly district had held only one meeting since its constitution and in case of North 24 Parganas, the meetings are either quarterly or monthly. The meetings were generally held in the DLSA office itself.

3. *Communication*

- a. **Interaction between Lawyer and Client:** In all the four districts there is regular interaction between lawyers and clients. Some districts also made special provisions for facilitating these interactions.
- b. **Sharing of Information:** In all the four districts information is communicated to the lawyers either in the meeting itself as well as by circulating the resolutions adopted in the meetings. In only three districts, reports and feedback are sought from the lawyers. None of the districts kept any records on whether any information on the progress of legal aid cases was sought from the court.
- c. **Complaints & Grievance Redressal:** In all four districts, MCs receive complaints against the lawyers; when found serious in nature the legal aid lawyers are changed. Allegations include allegations of bribes, not attending court hearings, not interacting with the client to update on case status etc. Different districts had different ways of dealing with complaints. Certain best practices are highlighted in the next section.



4. *Best Practices & Issues: District/Sub-Division Wise*

A. Kolkata

Best Practice:

- a. **Client-lawyer interaction:** The Committee ensures that legal aid lawyers interact with their clients on a regular basis. For this, there is a specific space at the DLSA Office where the client may meet the lawyer and the legal aid lawyer may either be called or arrive with a pre-scheduled appointment.
- b. **Grievance Redressal:** When the Committee receives any complaint against any of the lawyers regarding non-performance or bribery, it speaks to the concerned lawyer to ascertain the truth of the complaint. If the allegation is substantiated, there is a change of lawyer. But if there are repeated cases of serious allegations in nature (in writing), the lawyer may even be removed from the panel.
- c. **Training of lawyers:** In addition to its mandated work, the monitoring committee is also responsible for conducting workshops and refresher courses for the legal aid lawyers. As long as these activities do not distract from the mandate of the committee, training of legal aid lawyers can improve both performance and reporting by lawyers.

B. Hooghly

Best Practice:

- a. **Mandate:** The members of the MC have formulated a guideline on their roles and duties. Their primary role is to monitor the progress of the legal aid cases, and to obtain day-to-day reports from the legal aid lawyers.
- b. **Grievance Redressal:** It is empowered to receive and decide complaints on non-performance by these lawyers. It has received only one written complaint till now, as most complaints are made over the phone.

C. North 24 Parganas

Issue: The committee is unable to seek reports from legal aid lawyers on the cases defended by them as the bar has opposed to the submission of any such report.

1) Bidhannagar Sub division:

Issues:

- a. **Lack of Infrastructure:** There are huge administrative and infrastructural deficiencies at this SDLSC and it is unable to monitor the progress of the legal aid cases. Due to the lack of proper space, maintenance of documents is difficult.
- b. **No Front Office:** There is no front office which can facilitate interactions between the legal aid lawyers and their clients.
- c. **No reporting:** The lawyers do not submit a written report on the progress of their cases to the Secretary even though the same has been impressed upon them.
- d. **Issues with payments:** Another pertinent reason for the loss of incentive on the part of the legal aid lawyers is due to the present payment schedule which does not incorporate the costs that are being otherwise borne by the lawyers. Due to the shortage of proper financial

allocation, payments are often delayed. Funds are allocated under three heads: Central Fund – accorded by NALSA, State Fund – accorded by SLSA, Miscellaneous – this is being generated by receiving donations from lok adalats and costs being imposed by the Courts. However the miscellaneous fund is lying underutilised due to the absence of any directions for its use.

D. South 24 Paraganas

1. Diamond Harbour Sub division:

Issue:

- a. **No retainer lawyers:** Even though the DLSA may want to appoint retainer lawyers, nobody seeks appointment as the honorarium of Rs. 5000 is insufficient.

Best Practice:

- a. **Client Lawyer Interaction:** The MC ensures that there is a regular interaction between the panel lawyers and legal aid beneficiaries. The lawyers are required to submit reports to the MC if they are facing any problem with a litigant. The Secretary personally handles these problems.
- b. **Grievance Redressal:** The litigants are required to notify the MC if they have any complaint against their lawyers. A litigant's complaint against the panel lawyer is registered as a misapplication case. Notice is issued to the advocate and both parties are heard personally by the secretary. If there is a requirement, the panel lawyer is changed. However, the lawyer is never dropped from the panel. In addition to this, if any serious complaint is made before the Committee, the Committee seeks records/registers from the Court on that particular legal aid case.

2. Baruipur sub division:

Issues:

- a. **Infrastructure:** The infrastructure provided to the SDLSC is insufficient and it operates out of the records room of the Court premises.
- b. **No monitoring committee:** No monitoring of the working of the legal aid lawyers. Even meetings with the Chairman are not regular due to excess workload.
- c. **Delay in appointments:** Since there is no staff provided to the Secretary, he is responsible for appointing legal aid lawyers for the clients, financial and accounting work, organizing lok adalats and administrative work. As a result, there is always a delay in appointing legal aid lawyers which he has been able to reduce over the past one year though.
- d. **Delay in payment:** Clearing payment claims of the legal aid lawyers continues to hinder the working of the SDLSC. Due to this, many of the legal aid lawyers have lost both their reason to work and incentive to put in their dedication towards achieving results in the assigned cases.

IV. KEY FINDINGS & RECOMMENDATIONS

There is much to be accomplished in order to ensure optimum levels of performance by the monitoring committees. The findings show that compliance with the Regulations is poor. With the committees having been set up in only four out of the five districts surveyed, and only one of the thirteen sub divisions, there has to be a greater emphasis by the SLSA to ensure implementation of the NALSA Regulations 2010 in its entirety. The responsibility of the legal services authorities goes beyond providing legal services and entails integrating within its processes a robust oversight body to oversee legal aid delivery and review the working of legal aid lawyers. Only then can one ascertain and improve the quality of legal representation made. The key findings and recommendations are given below:-

1. *Constitution:*

Finding: MCs have not been set up in all districts and sub divisions

Recommendation: SLSA must seek compliance report from all districts to ascertain that the MCs have been established for each district and sub division.

2. *Inadequate Staff Support:*

Finding: Adequate staff is not provided to MCs in South 24 Parganas, Hooghly and North 24 Parganas.

Recommendation: SLSA must seek report from all districts & sub divisions in West Bengal on shortage of staff which hampers performance of the MCs. In order to deal with the issue of inadequate staffing, paralegal volunteers and law students may be permitted to volunteer/work at the district and sub-divisional levels so as to reduce the burden on the secretaries. They can assist the MC in maintaining the register and coordinating with the lawyers in documenting the cases. They can also assist the legal aid lawyers in documenting cases, organise lok adalats and also assist to conduct legal awareness camps.

3. *Inadequate infrastructure:*

Finding: At the sub-divisional level, financial and infrastructural inadequacies make it difficult to set up monitoring committees. In many places, SDLSC's are functioning out of a single tiny room and hence it is very difficult to maintain records and monitor the progress of these cases. There is no space for having a front office or a space to facilitate lawyer-client interaction.

Recommendation: SLSA should call for feedback from all sub-divisions on available infrastructure and conduct field visits to assess the actual situation. Greater emphasis on implementation is required at the sub-divisional levels.

4. *Documentation:*

Finding: Registers were maintained in three districts, but not in South 24 Parganas. There are no uniform or standardized formats in use.

Recommendation: SLSA must prepare model formats for use by the monitoring committees across all districts and sub-divisions. Registers should mention information for each accused. Accused wise information containing details of all proceedings in the case is important to document. It may be a good idea to maintain the register accused wise, or have a separate page for each accused so that

information on case hearings can be updated. A register format based on one used by Himachal State Legal Services Authority (Sample Form 1) can be adopted in West Bengal.

Sample Form 1: Format for register

Sr. No.	Details of Accused/Inmate Name, Fathers Name, Case Ref No, Offence u/s, Court	Name of the Advocate	Date of Hearing	BURGLARY	Remarks

5. Reporting by lawyers

Finding: DLSAs felt that lawyers were reluctant in submitting reports on cases. Thus, overall reporting by lawyers is poor, and most of them prefer to do it verbally. The interviews with functionaries highlighted the unwillingness on part lawyers to be reviewed and monitored.

Recommendation: Services rendered by legal aid lawyers are paid for by the legal services authorities, and that itself warrants accountability. Documentation and regular reporting not only ensures monitoring but can also speed up the payment process. In order to facilitate documentation and reporting by lawyers, the aid of technology can be sought. Legal services authorities can develop a desktop software with a corresponding mobile application to document and monitor legal aid cases. CHRI has worked on a basic concept of such technology. In a nutshell, it would help legal services institutions track appearances of lawyers in court, track visits to prison to meet a client, speed up the recording of updates and enable instant sharing with client/family.⁶

6. Reporting by DLSA & SDLSCs to SLSA

Finding: Regular reporting from DLSAs is being done in the districts of Kolkata and South 24 Parganas only. However, here again there is no standardized formats for submitting the report, which often inhibits other districts in submitting reports for want of clarity on the contents of the report.

Recommendation: SLSA may consider adapting formats used in Machilipatnam, Andhra Pradesh, or Vizianagaram, Andhra Pradesh, for reporting and documenting cases by the Monitoring Committees.

Sample Form 2: Format for reporting

Legal Aid Case Number	Name of the applicant for legal aid	Case number & Court Number	Name of the panel lawyer provided	Whether day to day posting and its result is mentioned in the Register at Monitoring Committee	Progress of the case before the courts	Advise or other services if any, provided by the Monitoring Committee or Panel Lawyer	Individual Assessment on the progress of each case	Individual assessment on the performance of the Panel Lawyer, Retainer Lawyer	Result of the case	Other observations if any, of the Monitoring Committee	Recommendations of the Monitoring Committee if any
District Legal Services Authority, <Name of the District>											

⁶ For more information on the proposed software contact us at chripisonsprog@gmail.com.

Sample Form 3: Format for reporting

Name of the Legal Service Institution	Legal Aid Application No. & date on which legal aid was given	Name of the Legal Aid Applicant	Nature of Case (Civil, Criminal, Constitution law)	Name & Roll no. of lawyer assigned to the applicant	Name of the Court in which the case is to be filed	Date of engaging the panel lawyer	Whether any monetary assistance like court fee, advocate fee, commission fee, copying charges etc., has been given in advance	Whether the case requires any interim orders of appointment of commission	Approximate expenditure for producing records cum summons of witness etc.	The expected time for the conclusion of proceedings in the court	Remarks	Instructions issued if any
1	2	3	4	5	6	7	8	9	10	11	12	13

7. *Grievance Redressal*

Finding: There are hardly any mechanisms in place for registering grievances by clients, or for dealing with complaints.

Recommendation: SLSA must ensure that effective mechanisms for reporting of grievances are imbibed within the system. Establishment of grievance redressal boxes in court rooms, front office and in prison premises might be considered. SLSA should also publicise NALSA's online portal for submission of grievances as well as work towards raising awareness regarding the provisions of the NALSA Standard Operating Procedures for Redressal of Complaints/Public Grievances.⁷

8. *Complaints against lawyers*

Finding: In a few districts, complaints against lawyers are addressed by changing the legal aid lawyer; or non-assignment of cases; or removal of lawyer name from the panel.

Recommendation: Stringent measures need to be adopted to counter complaints against legal aid lawyers. This would include allegations of bribes, not attending court hearings, not interacting with the client to update on case status etc. Proper procedures should be laid down on how such complaints shall be processed and the nodal authority responsible for the same.

⁷ Annexure 3.

PART II:

DISTRICT WISE DATA

Table 1: Details of interviews conducted

NAME OF THE DISTRICT	NAMES OF SDLSC WITHIN THE DISTRICT	DATE OF INTERVIEW	PERSON INTERVIEWED	DESIGNATION
Hooghly	Chinsurah Sadar, Chandernagore, and Arambagh	February 2, 2017	Mr. Sounak Mukherjee	Secretary, DLSA
Howrah	Howrah Sadar, Uluberia	March 11th 2017	Mr. Arvind Mishra	Secretary, DLSA
Kolkata	None	January 18, 2017.	Mr. Uttam Bhattacharya	Secretary, DLSA
North 24 Parganas	Barasat, Bidhannagar, Bongaon, Barrackpore and Basirhat	March 21, 2017.	Ms. Moon Chakraborty	Secretary, DLSA
South 24 Parganas	Diamond Harbour, Karkdwip and Baruipur	January 20, 2017	Mr. Arijit Mukhopadhyay	Secretary, DLSA

Table 2: Details of monitoring committees

NAME OF THE DISTRICT	DATE OF CONSTITUTION	MEMBERS	TENURE	FREQUENCY OF VISIT	SUPPORT STAFF	REGISTERS MAINTAINED	REPORTING
Hooghly	March 30, 2016	Chairman -Mr. Pulak Kr. Tewari; Secretary, DLSA - Mr. Sounak Mukherjee; and Advocate - Mr. Shyamalanada Sreemany	Not fixed.	Only once till now	No separate staff	Yes	No
Howrah	Not constituted	NA	NA	NA	NA	NA	NA
Kolkata	March 9, 2016	Chairman -Mr. Sudip Niyogi; Secretary, DLSA - Mr. Bishwarup Chowdhary; and Government Pleader - Mr. Pinaki Ganguly	Not fixed.	Twice a month	Yes, office master, accountants and peons	Yes	Yes
North 24 Parganas	April 7, 2016	3rd ADJ - Mr. Bishwaroop Bandopadhyay; Secretary,DLSA - Ms. Moon Chakraborty	Not fixed.	either quarterly or monthly	No separate staff	Yes	No
South 24 Parganas	April 29, 2016	Chairman - Mr. Suranjan Kundu, Secretary, DLSA - Mr. Arijit Mukhopadhyay,; and Advocate - Mr. Jayanta Mukherjee	Not fixed.	Twice a month	No separate staff	No	Yes

Table 3: Details of panel lawyers appointed and fees paid

NAME OF THE DISTRICT	APPOINTMENT OF PANEL LAWYERS	FEES PAID (2016)
Hooghly	Yes, 50 Lawyers empanelled & 1 retainer lawyer	Panel Lawyers: Honorarium - Rs. 62,550 + Additional expense - Rs. 9,000. Retainer lawyers: Honorarium - Rs. 20,500 + Additional expense - Rs. 9,000
Howrah	Lawyers empanelled	No information shared
Kolkata	Yes, 77 Lawyers empanelled	No information shared
North 24 Parganas	Yes, 250 Lawyers empanelled & 1 retainer lawyer	Within 2 lakh
South 24 Parganas	Yes, 244 Lawyers empanelled	No information shared

Table 4: Constitution of Monitoring Committees at the District Level

Name of the District	Whether Monitoring Committee has been constituted?	Number of Members in the Committee	Tenure of the Members	Whether Constitution is in compliance with the Regulations?
Kolkata	Yes	3	Not fixed	Yes
South 24 Parganas	Yes	3	Not fixed	Yes
Hooghly	Yes	3	On transfer of ex officio members	Yes
North 24 Parganas	Yes	3	Not fixed	Yes
Howrah	No	N/A	N/A	N/A

Table 5: Constitution of Monitoring Committees at the Sub Divisional Level

Name of the District	Name of the Sub divisions	Whether Monitoring Committee has been constituted?	Number of Members in the Committee	Tenure of the Members	Whether Constitution is in compliance with the Regulations?
Kolkata	N/A	N/A	N/A	N/A	N/A
South 24 Parganas	Diamond Harbour	Yes	3	Not fixed	Yes
	Karkdwip	Information not available	Information not available	Information not available	Information not available
	Baruipur	No	N/A	N/A	N/A
Hooghly	Chinsurah Sadar	No	N/A	N/A	N/A
	Chandernagore	No	N/A	N/A	N/A
	Arambagh	No	N/A	N/A	N/A
North 24 Parganas	Barasat	Information not Available	Information not available	Information not available	Information not available
	Bidhannagar	No	N/A	N/A	N/A
	Bongaon	Information not Available	Information not available	Information not available	Information not available
	Barrackpore	Information not Available	Information not available	Information not available	Information not available
	Basirhat	Information not Available	Information not available	Information not available	Information not available
Howrah	Howrah Sadar	No	N/A	N/A	N/A
	Uluberia	No	N/A	N/A	N/A

Table 6: Functioning of the Monitoring Committees at the District Level

Name of the District	Whether adequate staff is provided to the Monitoring Committee	Whether registers are being maintained	Whether bi-monthly reports are being submitted by the Monitoring Committee to the Executive Committee	Frequency of the meetings of the Monitoring Committee	Whether minutes of the meetings are recorded
Kolkata	Yes	Yes	Yes	Bi-monthly	Yes
South 24 Parganas	No, just DLSA staff	Not yet	Report submitted only if decision is taken	Bi-monthly	Yes
Hooghly	No, just DLSA staff	Yes	Not yet	Just one meeting done	Yes
North 24 Parganas	No, just DLSA staff	Yes	No	Quarterly/ monthly	No
Howrah	N/A	N/A	N/A	N/A	N/A

Table 7: Functioning of the Monitoring Committees at the Sub-divisional Level

Name of the District	Name of the Sub-division	Whether adequate staff is provided to the Monitoring Committee	Whether registers are being maintained	Whether bi-monthly reports are being submitted by the Monitoring Committee to the Executive Committee	Frequency of the meetings of the Monitoring Committee	Whether minutes of the meetings are recorded
Kolkata	N/A	N/A	N/A	N/A	N/A	N/A
South 24 Parganas	Diamond Harbour	Information not available	Information not available	Information not available	Information not available	Information not available
	Karkdwip	Information not available	Information not available	Information not available	Information not available	Information not available
	Baruipur	N/A	N/A	N/A	N/A	N/A
Hooghly	Chinsurah Sadar	N/A	N/A	N/A	N/A	N/A
	Chandernagore	N/A	N/A	N/A	N/A	N/A
	Arambagh	N/A	N/A	N/A	N/A	N/A
North 24 Parganas	Barasat	Information not available	Information not available	Information not available	Information not available	Information not available

	Bidhannagar	N/A	N/A	N/A	N/A	N/A
	Bongaon	Information not available				
	Barrackpore	Information not available				
	Basirhat	Information not available				
Howrah	Howrah Sadar	N/A	N/A	N/A	N/A	N/A
	Uluberia	N/A	N/A	N/A	N/A	N/A

Table 8: Communication with the Legal aid Lawyers at the District Level

Name of the District	Number of panel and retainer lawyers appointed	Whether information is communicated to the lawyers	Whether reports are sought from the lawyers	Whether records of legal aid cases are sought from the Court	Whether interaction between lawyers and clients is ascertained	Whether Monitoring Committee can receive complaints against the lawyers
Kolkata	77	Yes via meetings	Yes, feedback forms to be filled regularly.	Never	Yes	Yes. If allegation is proved, there is a change of lawyer
South 24 Parganas	Category A Panel Lawyers- 166 Category B Panel Lawyers- 78	Yes, resolution adopted in meetings of monitoring committees is put up on notice board	Yes, if they are facing a problem with the litigants	Only if a serious complaint is made before the monitoring committee	Yes	Yes. If allegation is proved, there is a change of lawyer
Hooghly	Panel Lawyers- 50 JLV- 4 Retainers- 1 (JJB)	Yes	Yes, bi-monthly	Never. Records verified in some cases	Yes	Yes. In case of misbehavior or malpractice, lawyer is changed,
North 24 Parganas	Panel Lawyers- 250 Retainers- 1	Yes	No	Never	Yes.	Yes If allegation is proved, there is a change of lawyer
Howrah	N/A	N/A	N/A	N/A	N/A	N/A

Table 9: Communication with the Legal aid Lawyers at the Sub-divisional Level

Name of the District	Name of the Sub division	Number of panel and retainer lawyers appointed	Whether information is communicated to the lawyers	Whether reports are sought from the lawyers	Whether records of legal aid cases are sought from the Court	Whether interaction between lawyers and clients is ascertained	Whether Monitoring Committee can receive complaints against the lawyers
Kolkata	N/A	N/A	N/A	N/A	N/A	N/A	N/A
South 24 Parganas	Diamond Harbour	Information not available	Information not available	Information not available	Information not available	Information not available	Information not available
	Karkdwip	Information not available	Information not available	Information not available	Information not available	Information not available	Information not available
	Baruipur	SDLSC Secretary is responsible for appointing lawyers	The Secretary is unable to monitor their progress	No	No	No	No.
Hooghly	Chinsurah Sadar	N/A	N/A	N/A	N/A	N/A	N/A
	Chandernagore	N/A	N/A	N/A	N/A	N/A	N/A
	Arambagh	N/A	N/A	N/A	N/A	N/A	N/A
North 24 Parganas	Barasat	Information not available	Information not available	Information not available	Information not available	Information not available	Information not available
	Bidhannagar	SDLSC Secretary is responsible for appointing lawyers	No, due to lack of time and adequate infrastructure, the Secretary cannot monitor their progress	No	No	No front office to enable the interaction	No.
	Bongaon	Information not available	Information not available	Information not available	Information not available	Information not available	Information not available
	Barrackpore	Information not available	Information not available	Information not available	Information not available	Information not available	Information not available
	Basirhat	Information not available	Information not available	Information not available	Information not available	Information not available	Information not available
Howrah	Howrah Sadar	N/A	N/A	N/A	N/A	N/A	N/A
	Uluberia	N/A	N/A	N/A	N/A	N/A	N/A

ANNEXURES

ANNEXURES

ANNEXURE 1: NALSA (Free and Competent Legal Services) Regulations 2010

In exercise of the powers conferred by section 29 of the Legal Services Authorities Act, 1987 (39 of 1987) and in pursuance of the provisions in section 4 of the said Act the Central Authority hereby makes the following regulations, namely: -

1. Short title and commencement.- (1) These regulations may be called the National Legal Services Authority (Legal Services Clinics) Regulations, 2011. (2) They shall come into force from the date of their publication in the Official Gazette.
2. Definitions. – (1) In these regulations, unless the context otherwise requires, -
 - (a) “Act” means the Legal Services Authorities Act, 1987 (39 of 1987);
 - (b) “District ADR centre” means the District Alternative Dispute Resolution Centre established with the funds of the 13th Finance Commission and includes any other similar facilities like Nyayaseva Sadans at the district level;
 - (c)⁸ [“legal services clinic” means the facility established by the District Legal Services Authority to provide basic legal services to the villagers with the assistance of Para-Legal Volunteers or Lawyers, as the point of first contact for help and advice and includes legal services clinics set up under regulation 3 and regulation 24;]
 - d) “legal services institution” means a State Legal Services Authority, District Legal Services Authority or the Taluk Legal Services Committee, as the case may be;
 - (e) “panel lawyer” means the panel lawyer selected under regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010;
 - (f) “para-legal volunteer” means a para-legal volunteer trained as such by a legal services institution;
 - (g) “retainer lawyer” means a retainer lawyer selected under regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010;
 - (h) “section” means the section of the Act;
2. All other words and expressions used in these regulations but not defined shall have the same meanings as assigned to them in the Act.
3. Establishment of legal aid clinic.-, Subject to the financial resources available, the District Legal Services Authority shall establish legal aid clinics in all villages, or for a cluster of villages, depending on the size of such villages, especially where the people face geographical, social and other barriers for access to the legal services institutions.
4. Eligibility criteria for free legal services in the 1 [legal services clinic].- Every person who fulfils the criteria specified in section 12 shall be eligible to get free legal services in the [legal aid clinics]⁹.

⁸ Substituted by Noti. No.L/08/11 NALSA, dated 10-8-2014 (w.e.f. 6 -12 -2014).

⁹ *Ibid.*

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5. The personnel manning the legal aid clinic.- (1) Every legal aid clinic established under regulation 3 shall have at least two para-legal volunteers available during the working hours of the legal aid clinics.
 - (2) The legal services institution having territorial jurisdiction or the District Legal Services Authority may depute trained para-legal volunteers to the legal aid clinics.
 - (3) When lawyers are deputed to the legal aid clinic, it shall be the duty of the para-legal volunteers engaged in such clinic to assist the lawyers in drafting petitions, applications, pleadings and other legal documents.
 - (4) The State Legal Services Authority may encourage para-legal volunteers to obtain diploma or degree in law for betterment of their prospects in the long run.
 6. Deputing lawyers to the legal aid clinic. – (1) The nearest legal services institution having territorial jurisdiction may depute its panel lawyers or retainer lawyers to the legal aid clinic.
 - (2) If the matter handled by any such lawyer requires follow-up and continuous attention for a long duration, the same lawyer who had handled the matter may be entrusted to continue the legal services.
 7. Frequency of visit by lawyers in the legal aid clinic. – Subject to the local requirements and availability of financial resources, the legal services institution having territorial jurisdiction may decide the frequency of the lawyers’ visit in the legal aid clinics and if the situation demands for providing continuous legal services, such legal services institution may consider arranging frequent visits of lawyers in the legal aid clinic.
 8. Selection of lawyers for manning the legal aid clinics.- (1) The Panel lawyers or retainer lawyers with skills for amicable settlement of disputes, shall alone be considered for being deputed to the legal aid clinic: Provided that preference shall be given to women lawyers having practice of at least three years.
 9. Legal services in the legal aid clinic. - (1) Legal services rendered at the legal aid clinic shall be wide ranging in nature.
 - (2) The legal aid clinic shall work like a single-window facility for helping the disadvantaged people to solve their legal problems whenever needed.
 - (3) Besides legal advice, other services like preparing applications for job card under the Mahatma Gandhi National Rural Employment Guarantee (MGNREG) Scheme, identity card for different government purposes, liaison with the government offices and public authorities, helping the common people who come to the clinic for solving their problems with the government officials, authorities and other institutions also shall be part of the legal services in the [legal services clinic]¹⁰: Provided that the [legal services clinic]¹¹ shall provide assistance by giving initial advice on a problem, assistance in drafting representations and notices, filling up of forms for the various benefits available under different government schemes, public distribution system and other social security schemes:
Provided further that, in appropriate cases, the legal services sought for by the applicants in the [legal services clinic]¹² shall be referred to the legal services institutions for taking further action.
 10. Functions of para-legal volunteers in the legal aid clinic.- (1) The para-legal volunteers engaged in

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

the [legal services clinic]¹³ shall provide initial advice to the persons seeking legal service, help such people, especially the illiterate, in drafting petitions, representations or notices and filling-up the application forms for various benefits available under the government schemes.

- (2) para-legal volunteers shall, if necessary, accompany the persons seeking legal services to attend the government offices for interacting with the officials and for solving the problems of such persons.
- (3) If services of a lawyer is required at the [legal services clinic]¹⁴, the para-legal volunteers shall, without any delay, contact the nearest legal services institution to make available the services of a lawyer.
- (4) In case of emergency, the para-legal volunteers may take the persons seeking legal services in the [legal services clinic]¹⁵ to the nearest legal services institutions.
- (5) para-legal volunteers shall distribute pamphlets and other materials in aid of legal education and literacy to the persons seeking legal services in the [legal services clinic]¹⁶.
- (6) para-legal volunteers shall take active part in the legal awareness camps organised by the legal services institutions in the local area of the [legal services clinic]¹⁷.

11. Location of [legal services clinic]¹⁸. – (1) [legal services clinics]¹⁹ shall be located at places where the people of the locality can have easy access.

- (2) The legal services institutions may request the local body institutions, such as the village panchayat, to provide a room for establishing [legal services clinics]²⁰:
Provided that if no such rooms are available, the District Legal Services Authority may take a room on rent till alternative accommodation is available for establishing the [legal services clinic]²¹.

12. Assistance of the local body institutions in obtaining a convenient room for the [legal services clinic]²². – (1) The State Legal Services Authority shall call upon the local body institutions like the village panchayat, mandal or block panchayat, municipality and corporation etc, to provide space for the functioning of the [legal services clinics]²³.

- (2) Since the [legal services clinic]²⁴ is for the benefit of the people in the locality, the State Legal Services Authority may impress upon the local body institution and the district administration the need to co-operate with the functioning of the [legal services clinics]²⁵.

13. [Signboard exhibiting the name of the [legal services clinic]²⁶. – (1) There shall be a signboard, both in English and in the local language, depicting the name of the legal services clinic including as Village Legal Care and Support Centre, wherever applicable, working hours and the days on which the legal services clinic shall remain open.

- (2) Working hours of the legal services clinic shall be regulated by the legal services institution having territorial jurisdiction, in consultation with the District Legal Services Authority:
Provided that subject to the local conditions and requirements of the people in the locality, legal

13 *Ibid.*

14 *Ibid.*

15 *Ibid.*

16 *Ibid.*

17 *Ibid.*

18 *Ibid.*

19 *Ibid.*

20 *Ibid.*

21 *Ibid.*

22 *Ibid.*

23 *Ibid.*

24 *Ibid.*

25 *Ibid.*

26 *Ibid.*

services clinics shall function on all Sundays and holidays.]

14. Infrastructure in the [legal services clinic]²⁷. – (1) Every [legal services clinic]²⁸ shall have at least the basic and essential furniture like a table and 5 to 6 chairs.
(2) If the [legal services clinic]²⁹ is established in the building of the local body institutions, such local bodies may be requested to provide the essential furniture for use in the [legal services clinic]³⁰.
(3) If the [legal services clinic]³¹ is established in hired premises, the District Legal Services Authority may provide the furniture required in the [legal services clinic]³²:
Provided that if the District Legal Services Authority has its own building to establish [legal services clinic]³³, the infrastructural facilities shall be provided by such Authority.
15. Publicity. – (1) Local body institutions shall be persuaded to give adequate publicity for the [legal services clinic]³⁴.
(2) The elected representatives of the local body institutions may be persuaded to spread the message of the utility of [legal services clinic]³⁵ to the people in his or her constituency or ward.
16. Para-legal volunteers or lawyers in the [legal services clinic]³⁶ shall attempt to resolve disputes amicably. – (1) The para-legal volunteers or the lawyers engaged in the [legal services clinic]³⁷ shall attempt to amicably resolve the prelitigation disputes of the persons brought to the [legal services clinic]³⁸. (2) If the para-legal volunteers or the lawyers feel that such dispute can be resolved through any of the ADR mechanisms, they may refer such disputes to the legal services institution having territorial jurisdiction or to the District ADR centre.
17. Honorarium for the lawyers and para-legal volunteers rendering services in the 1 [legal services clinic].- (1) Subject to the financial resources available, the State Legal Services Authority in consultation with the National Legal Services Authority may fix the honorarium of lawyers and para-legal volunteers engaged in the 1 [legal services clinic]: Provided that such honorarium shall not be less than Rs. 500/- per day for lawyers and Rs. 250/- per day for the para-legal volunteers.
(2) Special consideration may be given in cases where the [legal services clinic]³⁹ is situated in difficult terrains and in distant places where transport facilities are inadequate.
18. The nearest legal services institutions to organise lok adalats at the [legal services clinic]⁴⁰ or near to its premises. – (1) The nearest legal services institution having territorial jurisdiction or the District Legal Services Authority may organise [lok adalats for pending and for pre-litigation disputes] at the [legal services clinic]⁴¹ or in its vicinity.
(2) The lok adalats organised for pre-litigation settlement of the disputes sent from the 1 [legal services

27 *Ibid.*

28 *Ibid.*

29 *Ibid.*

30 *Ibid.*

31 *Ibid.*

32 *Ibid.*

33 *Ibid.*

34 *Ibid.*

35 *Ibid.*

36 *Ibid.*

37 *Ibid.*

38 *Ibid.*

39 *Ibid.*

40 *Ibid.*

41 *Ibid.*

clinic] shall follow the procedure prescribed in subsection (2) of section 20 and also the provisions in the National Legal Services Authority (Lok Adalats) Regulations, 2009.

19. Administrative control of the [legal services clinic]⁴².- (1) [legal services clinic]⁴³ shall be under the direct administrative control of the District Legal Services Authority
- (2) The State Legal Services authority shall have the power to issue instructions and guidelines on the working of the [legal services clinic]⁴⁴.
20. Maintenance of records and registers.- (1) Lawyers and para-legal volunteers rendering service in the 1 [legal services clinic] shall record their attendance in the register maintained in the [legal services clinic]⁴⁵.
- (2) There shall be a register in every [legal services clinic]⁴⁶ for recording the names and addresses of the persons seeking legal services, name of the lawyer or para-legal volunteer who renders services in the [legal services clinic]⁴⁷, nature of the service rendered, remarks of the lawyer or para-legal volunteer and signature of persons seeking legal services.
- (3) The records of the [legal services clinic]⁴⁸ shall be under the control of the Chairman or the Secretary of the legal services institution having territorial jurisdiction over it.
- (4) The District Legal Services Authority may require the [legal services clinic]⁴⁹ to maintain other registers also, as may be required.
- (5) It shall be the duty of the para-legal volunteers and the lawyers in the legal aid clinic to hand over the registers to the legal services institution having territorial jurisdiction as and when called for.
21. Use of mobile lok adalat vehicle. – (1) The lawyers rendering legal services in the [legal services clinic]⁵⁰ or the para-legal volunteers may request the District Legal Services Authority to send the mobile lok adalat van with members of the lok adalat bench to the [legal services clinic]⁵¹ for settlement of the disputes identified by them.
- (2) The mobile lok adalat van fitted with the facilities for conducting the proceedings of the lok adalat may also be used for conducting lok adalat at the [legal services clinic]⁵² or at a place near to it or even at village congregations such as melas and other festive occasions.
22. [Legal services clinic]⁵³ run by the law students. – The above regulations shall mutatis mutandis be applicable to the student [legal services clinic]⁵⁴ set up by the law colleges and law universities: Provided that students of law colleges and law universities also may make use of the [legal services clinic]⁵⁵ established under these regulations with the permission of the District Legal Services Authority.
23. Law students may adopt a village for legal aid camps. – (1) Law students of the law colleges or

42 *Ibid.*

43 *Ibid.*

44 *Ibid.*

45 *Ibid.*

46 *Ibid.*

47 *Ibid.*

48 *Ibid.*

49 *Ibid.*

50 *Ibid.*

51 *Ibid.*

52 *Ibid.*

53 *Ibid.*

54 *Ibid.*

55 *Ibid.*

law universities may adopt a village, especially in the remote rural areas and organise legal aid camps in association with the [legal services clinic or Village Legal Care and Support System Care]⁵⁶ established under these regulations.

- (2) The law students may, with the assistance of the para-legal volunteers engaged in the [legal services clinic]⁵⁷, conduct surveys for identifying the legal problems of the local people.
- (3) The surveys referred to in sub-regulation (2) may include gathering information relating to the existing litigations and unresolved pre-litigation disputes also.
- (4) The surveys referred to sub-regulation (2) may also focus on the grievances of the local people which would enable the National Legal Services Authority to take necessary steps by way of social justice litigation as provided in clause (d) of section 4.
- (5) The law students conducting such surveys shall send reports to the State Legal Services Authorities with copies to the legal services institutions having territorial jurisdiction and also to the District Legal Services Authority.

24. [Legal services clinic]⁵⁸ attached to the law colleges, law universities and other institutions. – (1) The law colleges, law universities and other institutions may set up [legal services clinic]⁵⁹, as envisaged in clause (k) of section 4 attached to their institutions as a part of the clinical legal education.

- (2) The law colleges, law universities and other institutions establishing such [legal services clinic]⁶⁰ shall inform the State Legal Services Authority about the establishing of such [legal services clinic]⁶¹.
- (3) The State Legal Services Authority shall render the required technical assistance for the operation of such [legal services clinic]⁶² and shall take measures to promote the activities of such [legal services clinic]⁶³.
- (4) The law students in the final year classes may render legal services in such [legal services clinic]⁶⁴ under the supervision of the faculty member of their institution.
- (5) The State Legal Services Authority may organise alternative dispute resolution camps, including lok adalats, to resolve the problems of the people who seek legal aid in such [legal services clinic]⁶⁵.
- (6) The District Legal Services Authority may issue certificates to the students who complete their assignment in such [legal services clinic]⁶⁶.

25. Services of para-legal volunteers trained by the Legal Services Authorities may be made available in the [legal services clinic]⁶⁷ run by the Law Colleges, Law Universities etc. – Trained para-legal volunteers may be deputed to the [legal services clinics]⁶⁸ established under regulation 24 for assisting the persons seeking free legal services and for interacting with the students and the members of the faculty.

26. The State Legal Services Authorities to conduct periodical review of the functioning of [legal services clinic]⁶⁹.-(1) The State Legal Services Authority shall collect monthly reports from the District Legal

56 *Ibid.*

57 *Ibid.*

58 *Ibid.*

59 *Ibid.*

60 *Ibid.*

61 *Ibid.*

62 *Ibid.*

63 *Ibid.*

64 *Ibid.*

65 *Ibid.*

66 *Ibid.*

67 *Ibid.*

68 *Ibid.*

69 *Ibid.*



Services Authorities, law colleges and law universities on the functioning of [legal services clinic]⁷⁰ working in their jurisdiction.

- (2) The State Legal Services Authority shall conduct periodical review of the working of such [legal services clinic]⁷¹ at least once in three months or more frequently.
- (3) The State Legal Services Authority may issue directions from time to time for improving the services in the [legal services clinic]⁷² to ensure that members of the weaker sections of the society are provided legal services in an efficient manner.
- (4) The State Legal Services Authority shall send quarterly reports about the functioning of the [legal services clinic]⁷³ within their jurisdiction to the National Legal Services Authority

70 *Ibid.*

71 *Ibid.*

72 *Ibid.*

73 *Ibid.*

ANNEXURE 2: Circulars by WBSLSA on setup of Monitoring Committees 2012 & 2016


Bandana Roy, WEHJS
Member - Secretary
STATE LEGAL SERVICES AUTHORITY
WEST BENGAL



City Civil Court Building (1st Floor)
2 & 3, Kiran Sankar Roy Road,
Kolkata - 700 001
Phone : 033 - 2248 4234/3892
Fax : 033 - 2248 4235
E-mail : sisawb@cal3.vsnl.net.in
Website : www.wbslsa.org

No. 139(80)/SLSA-7/2012

Dated, Kolkata the 24.01.2012

To
The Chairman,
District Legal Services Authority,
&
The District & Sessions Judge,
AND
The Chairman,
Sub-Divisional Legal Services Committee,

Sir,

I am directed to request you that according to National Legal Services Authority, New Delhi Notification dated 9th September, 2010 and as per Rule 10 Sub-rule (1), District Legal Services Authority shall set up a Monitoring Committee for close monitoring of the court based legal services and the progress of the cases in legal aid matters.

Sub-rule 3 provides that the Monitoring Committee for District and Taluka Legal Services Institutions shall be constituted by the Executive Chairman of the State Legal Services Authority and shall consist of –

- i) The senior most Member of the Higher Judicial Service posted in the District concerned, as its Chairman ;
- ii) The Secretary of the District/Sub-divisional Legal Services Institutions .
- iii) A Legal Practitioner having more than 15 years experience at the Local Bar to be nominated in consultation with the President of the Local Bar Association.

I am directed to inform you that Legal Practitioner should not have any essence of Political Institutions. I am enclosing the said Rules for your information and for taking necessary action and you will submit a report within 15 days to this Authority about the action taken by you

Thanking you,

Yours faithfully,


(Bandana Roy)
Member Secretary
State Legal Services Authority, W.B

Enclo: As stated.

ve. 2016

Abhijit Som, WBHJS
Member Secretary

STATE LEGAL SERVICES AUTHORITY
WEST BENGAL

No. *625(1A)/SLSA-7/12*

Dt.: 09.03.2016



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To
The Chairman,
District Legal Services Authority

&
The Chief Judge/The District & Sessions Judge
Kolkata, Howrah, Hooghly, Burdwan, Purba Medinipur, Paschim Medinipur, Birbhum,
Bankura, North 24-Parganas, South 24-Parganas, Purulia, Nadia, Murshidabad, Malda,
Uttar Dinajpur, Dakshin Dinajpur, Jalpaiguri, Coochbehar and Darjeeling.

**Sub : Formation and functioning of Monitoring Committee
as per National Legal Services Authority (free and
competent legal services) Regulation 2010.**

Sir/Madam,

In pursuant to letter No. 139(80)/SLSA-7/2012 dated 24.01.2012 (copy enclosed) of State Legal Services Authority, West Bengal, Monitoring Committee might have been set up in DLSA and SDLSCs of your district but reports are coming to this Authority that the Committee has not been functioning up to the mark or in some cases has not been functioning at all.

I humbly remind you that Rule 10 of National Legal Services Authority (free and competent legal services) Regulations, 2010 speaks that

"Every Legal Services Institution shall set up a Monitoring Committee for close monitoring of the court based legal services rendered and the progress of the cases in legal aided matters.

The Monitoring Committee for the District and or Taluk Legal Services Institution shall be constituted by the Executive Chairman of the State Legal Services Authority and shall consist of,-

The senior-most member of the Higher Judicial Services posted in the district concerned, as its Chairman;

The Member Secretary or Secretary of the Legal Services Institution;

A legal practitioner having more than fifteen years' experience at the local Bar to be nominated in consultation with the President of the local Bar Association;

Provided that if the Executive Chairman is satisfied that there is no person of any of the categories mentioned in the sub-regulation, he may constitute the Monitoring Committee with such other persons as he may deem proper."

Abhijit Som, WBHJS
Member Secretary
STATE LEGAL SERVICES AUTHORITY
WEST BENGAL



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Therefore, I am directed to request you to revamp the formation of the Committee or constitute the Committee where it has not been formed at all as per guideline mentioned above within a couple of weeks period and send the particulars of the Monitoring Committee to this Authority positively by 28.03.2016.

You are also requested to see that Monitoring Committee may regularly assess the progress of cases assign to panel Lawyers and above all monitoring court based legal services rendered and progress of cases in legal aid matters.

With regards,

Yours faithfully,

(**Abhijit Som**)

Member Secretary
State Legal Services Authority
West Bengal

ANNEXURE 3: NALSA SOP on Grievance Redressal

STANDARD OPERATING PROCEDURE FOR REDRESSAL OF COMPLAINTS/PUBLIC GRIEVANCES

Every Authority/ Committee, whether at the national, state or district or taluka level receives various complaints from time to time. While the complaints are a means for the aggrieved to voice their grievances, they also tell us the reach of our programmes and our failures. It thus becomes essential that all the complaints are addressed expeditiously and effectively. In absence of any established mechanism to deal with the complaints or address public grievances, the approach to the same has remained ad-hoc and mired in delays. NALSA is also in receipt of OM dated 7th April, 2016 of the Ministry of Personnel, Public Grievances and Pension, Department of Administrative Reforms and Public Grievances as per which the Hon'ble Prime Minister had desired that all efforts should be made to reduce the time taken for redress of a grievance from the existing 2 months period to one month. Thus the need has been felt to lay down a mechanism to address the complaints and public grievances in a systematic manner.

Source of Complaints: Complaints may be:

- i. Received by NALSA directly from the public.
- ii. Received by NALSA from the office of the President of India, Prime Minister of India, Chief Justice of India and the Department of Justice, Ministry of Law and Justice, Government of India.
- iii. Received by the State/ District Authorities or Taluka Committees from the public directly.
- iv. Received by the State/ District Authorities or Taluka Committees from the various authorities including from the office of the Chief Justice of the respective state.
- v. Received by the State from NALSA.
- vi. District Authorities may further receive complaints forwarded by the State Authority or NALSA.
- vii. Taluka Committees may also similarly receive complaints forwarded by the State Authority or NALSA or District Authority.

Nature of Complaints: The complaints may include:

- i. Against a legal aid lawyer, where a legal aid lawyer has been assigned to a party at any level, including in respect of his working and conduct.
- ii. Against not being provided legal aid, where a party feels that he/ she is entitled to legal aid.
- iii. Against any public authority for inability to get any entitlement.
- iv. A general complaint involving a number of issues.
- v. A general airing of grievances by a person.
- vi. A person may simply be desirous of getting legal aid.
- vii. A person may be wanting any specific information.
- viii. Anonymous complaints.

Approach of the Authority/ Committee to the complaints/ public grievances

When a complaint is received by any Authority or Committee at any level, the approach should be towards problem solving rather than replying and disposing of the complaint. Our orientation should not be towards somehow getting the complaint off our board and thereby showing disposal of the complaint at our end. Rather, we need to deal with the complaints/ public grievances pro-actively so



that a party feels satisfied that he/ she has received appropriate response and knows what further course of action is available to it. The objective should be redressal and not mere disposal. Thus the following mechanism should be adopted at the different levels for addressing the complaints/ public grievances:

At the level of NALSA

- i. Since NALSA itself does not have a panel of lawyers and does not give legal aid and in fact acts through the State and District level Authorities, whenever a complaint is received against a legal aid lawyer or rejection of application for legal aid or seeking legal aid or even seeking any entitlement under any Scheme, the same shall be forwarded to the concerned State Legal Services Authority and where possible to the District Authority as well. Efforts shall be made to ensure that the same is done at the earliest. Till the development of an online portal for dealing with complaints, the complaint shall be scanned and sent by e-mail as well as a hard copy shall be sent by post. However, the State or District Authority should not wait till the receipt of the hard copy and they should act on the basis of the soft copy itself. While forwarding the complaints to the State/ District Authority, certain complaints may be identified by NALSA for monitoring and follow up.
- ii. While forwarding the complaint to the State/ District Authority, a copy of the forwarding letter should also be sent to the party concerned and/ or to the office/ Department through which the complaint has been received.
- iii. The complaints which do not have any merit in them may be filed. However, a reply shall be sent to the party concerned regarding the filing of the complaint and if the party has any other alternatives available with a copy to the office/ Department through which the complaint has been received, if received from any other office/ Department.
- iv. Anonymous complaints may also be filed.
- v. Where a general complaint is received, if the same is not forwarded to any Authority, the party may be informed that the issues raised have been noted and there is no ground to proceed further.
- vi. Where a party wants some specific information, the party may be directed to the authority/ person who would be best suited to provide the information.

At the level of SLSA

- i. Whenever a complaint is received against a legal aid lawyer or seeking legal aid or even seeking any entitlement under any Scheme directly or is forwarded by NALSA, the same shall be forwarded by the concerned State Legal Services Authority to the District Authority/ Taluka Committee, except where the SLSA feels that the complaint can be disposed of at its level. The same should be done at the earliest and in any case, not later than 5 working days of the receipt of the complaint, by whatever mode.
- ii. While forwarding the complaint to the District Authority/ Taluka Committee, a copy of the forwarding letter should also be sent to the party concerned and/or to the office/ Department through which the complaint has been received. Where the complaint was forwarded by NALSA to the SLSA, a copy of the forwarding letter is to be sent to NALSA as well.
- iii. The SLSA shall regularly follow up the progress made on the complaints with the concerned District Authority/ Taluka Committee and keep NALSA informed where the complaint has been forwarded by NALSA.
- iv. Where a complaint is received against rejection of application for legal aid, the same shall

be examined by SLSA. A report may be called from the DLSA/ Committee concerned, where necessary. If the SLSA is of the view that the rejection of application for legal aid was proper, the party may be informed of the same accordingly and NALSA may also be informed if the application has been forwarded by NALSA. However, if the SLSA is of the view that the party is entitled to legal aid, it may pass appropriate orders, including appointing a legal aid lawyer from amongst the lawyers on the panel of the District Authority/ Taluka Committee. For the said purpose, the SLSA may give a personal hearing to the party, where deemed necessary.

- v. The complaints which do not have any merit in them may be filed. However, a reply shall be sent to the party concerned regarding the filing of the complaint and if the party has any other alternatives available with a copy to NALSA/office/ Department through which the complaint has been received, if received from any other office/ Department or NALSA.
- vi. Anonymous complaints may also be filed.
- vii. Where a general complaint is received, if the same is not forwarded to any Authority, the party may be informed that the issues raised have been noted and there is no ground to proceed further.
- viii. Where a party wants some specific information, the party may be directed to the authority/ person who would be best suited to provide the information.

At the level of DLSA/Taluka Committee

- i) Whenever a complaint is received against a legal aid lawyer or seeking legal aid or even seeking any entitlement under any Scheme directly or is forwarded by NALSA/SLSA, the same shall be taken up by the DLSA/ Committee without any loss of time.
 - a) If the complaint is against a legal aid lawyer, a report may be called from the lawyer concerned and if the DLSA/ Committee is not satisfied with the report of the lawyer, appropriate action may be taken. Besides, the party may be contacted and the legal aid lawyer may be changed immediately.
 - b) If the application is merely for getting legal aid, appropriate steps may be taken as are taken in all cases for grant of legal aid.
 - c) If the application is for seeking any entitlement under any Scheme, the party may be informed of the recourses available and a PLV may be deputed to facilitate the party to get the entitlement. In all such cases, if necessary, the party may be requested to visit the office and discuss the problem rather than notices for appearance being sent to them. In order to get in touch with the parties and to save time, all possible modes should be used such as sending SMS to the party where the mobile number of the party is available, calling a party telephonically, sending a letter by speed post, using e-mail if e-mail id is available. Importantly, a PLV may even be sent to contact the party.

In all these cases, intimation should be sent to the SLSA/NALSA/ concerned department or office where the same had been forwarded by them.

- ii) Where a complaint is received against rejection of application for legal aid, the party shall be informed of the grounds of the same and that the party has the right to prefer an appeal against the order of the DLSA/ Committee and to whom the appeal can be made.
- iii) The complaints which do not have any merit in them may be filed. However, a reply shall be sent to the party concerned regarding the filing of the complaint and if the party has any other alternatives available with a copy to NALSA/SLSA/office/ Department through which the complaint has been received, if received from any other office/ Department or NALSA/ SLSA.

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- iv) Anonymous complaints may also be filed.
 - v) Where a general complaint is received, the party may be informed that the issues raised have been noted and there is no ground to proceed further.
 - vi) Where a party wants some specific information, the party may be directed to the authority/ person who would be best suited to provide the information.

For dealing with the complaints at all levels, it is reiterated that:

- Complaints/ public grievances should be addressed expeditiously.
- A pro-active and sensitive approach should be adopted.
- There should be regular follow up of complaints.
- Where NALSA forwards the applications to SLSAs or SLSAs forward the applications to DLSAs/ Committees, they should be apprised of the fate of the complaints.

Ultimately the purpose is that the public should feel that their complaints/ grievances are effectively addressed and without any delays.

GEETANJLI GOEL
DIRECTOR

CHRI Programmes

CHRI believes that the Commonwealth and its member countries must be held to high standards and functional mechanisms for accountability and participation. This is essential if human rights, genuine democracy and development are to become a reality in people's lives. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to justice and access to information. It does so through research, publications, workshops, information dissemination and advocacy. It has three principal programmes:

1. Access to Justice

Police Reforms: In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In South Asia, CHRI works to strengthen civil society engagement on police reforms. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

Prison Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. A major area is focussed on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

2. Access to Information

CHRI is acknowledged as one of the main organisations working to promote Access to Information across the Commonwealth. It encourages countries to pass and implement effective Right to Information laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh and Ghana. In the later CHRI's is the Secretariat for the RTI civil society coalition. CHRI regularly critiques new legislation and intervenes to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. Its experience of working in hostile environments as well as culturally varied jurisdictions allows CHRI to bring valuable insights into countries seeking to evolve and implement new laws on right to information. In Ghana, for instance it has been promoting knowledge about the value of Access to Information which is guaranteed by law while at the same time pushing for introduction of an effective and progressive law.

3. Strategic Initiatives Programme

CHRI monitors commonwealth member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN and the African Commission for Human and People's Rights. Ongoing strategic initiatives include: advocating for and monitoring the Commonwealth's reform; reviewing Commonwealth countries' human rights promises at the UN Human Rights Council, the Universal Periodic Review; advocating for the protection of human rights defenders and civil society space; and monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.



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